

PLANNING COMMISSION MINUTES

April 15, 2008

7:00 P.M.

Present: Chairman Clark Jenkins, Vice Chairman Tom Smith, Dave Badham, Michael Allen, Ray Keller, City Attorney Russell Mahan, City Engineer Paul Rowland, Planning Director Aric Jensen and Recording Secretary Connie Feil.

Absent: City Council Representative Beth Holbrook and Barbara Holt.

Clark Jenkins welcomed all those present.

Tom Smith made a motion to approve the minutes for April 1, 2008 as written. Dave Badham seconded the motion and voting was unanimous in favor.

1. Consider final site plan approval for Goldenwest Credit Union located at 2085 S. Orchard Dr., Great Basin Engineering-Ben Hunter, applicant.

Ben Hunter, applicant, was present. Aric Jensen explained that Mr. Ben Hunter, representing Goldenwest Credit Union, requests final site plan approval for a proposed institutional banking structure located in the recently approved Orchard Pines PUD - Commercial Phase. The City Council granted preliminary approval for this site as part of the overall site plan approval for the Orchard Pines PUD.

The City Engineer and Planning Director have reviewed the submitted plans, which include the building elevations and materials list, the final site plan drawings, and the landscaping plan, and made the following comments.

First, the revised grading plan will essentially eliminate the need for a retaining wall between Arctic Circle and the drive-up lanes. However, the applicant will need to construct either a curb wall or curb and gutter where the existing retaining wall is used as a boundary between the landscape areas and the Arctic Circle parking area. It may also be possible to simply saw cut the existing retaining wall. This decision can be made during the construction process. Storm drainage will be handled in two parts. The south side will drain into the main project retention system located on the south commercial lot. The north side will drain into a separate retention system, essentially a 60-inch diameter perforated pipe capped on both ends, located under the drive-up lanes.

Second, the landscaping plan is complete, however, there are three minor corrections: (1) There needs to be three street trees in the front of the building on about 35 foot centers. Staff usually recommends a dwarf flowering pear or similar tree that has a fairly open canopy and small root base, but the applicant can install any tree listed in the Land Use Ordinance. (2) The landscape strip on the north side of the property starts out on the west wider than 5', but narrows to 4' on the

east. This needs to stay at least 5' wide for the entire length. (3) There needs to be a 6' high solid fence on the east of the parking stalls behind the drive-up lanes to shield the side of the condominium unit. This fence should be made of the same materials as the dumpster enclosure doors.

Third, the parking calculations for both this site and the adjacent lot to the south were re-reviewed, and there is sufficient parking for both properties, even if the south property were to be developed as 100% commercial.

Lastly, the building elevations and material list appear to be attractive and in compliance with the provisions of the Land Use Ordinance regarding commercial structures.

Staff recommended final approval with the following conditions:

1. Curb and gutter, or other appropriate curbing system, be installed along the north side of the landscaping strip immediately adjacent to the Arctic Circle parking lot.
2. Corrections be made to the Landscaping Plan as noted in the staff report.
3. Any other redline corrections be made.

Ben Hunter stated that Goldenwest is looking forward to being part of the community.

Russell Mahan stated that an additional condition should be added that no building permit be issued until the commercial site plat is recorded.

After a brief discussion regarding fencing and installing an oil separator, Dave Badham made a motion to recommend to the City Council final site plan approval for the Goldenwest Credit Union subject to the conditions outlined by Staff with the addition of the following:

4. No building permit shall be granted until commercial plat recorded.
5. Install a sand and oil separator on the storm drain inlets.
6. Required fencing, including a 6-foot high solid fence between Unit 47 and the drive-thru lane area, shall be consistent with the fencing used in the residential phases of the Orchard Pines PUD.

Michael Allen seconded the motion and voting was unanimous in favor.

2. Consider final commercial site plan approval located at 3263 S. 800 W. (Hwy 89) PRW Architecture, Inc., applicant.

Paul Warnock and Brian Zaitz, representing PRW Architecture were present. Aric Jensen explained that Paul Warnock is requesting preliminary and final site plan approval for a mixed office/retail building at the corner of 800 West and Hwy 89. This property was rezoned from single family residential to general commercial last year, with several specific conditions. The most important condition was that the drive approach to the site be redesigned and/or relocated to meet all of the current City standards. Some of the other conditions were that there be no pole

signs and that any monument sign be located on the Hwy 89 frontage.

The parking calculations submitted concur with the Planning staff's assessment, which is a total of 29 stalls, based on the applicant's representation that the basement would be used for storage purposes and the second floor for professional office uses.

At the time of preliminary site plan review, there were two issues that needed to be resolved, the first being a boundary line gap between the current property line and the location of the fence/concrete mow-strip installed by the LDS Church 3 years ago when the new warehouse was constructed. The Church is going to accept the outside edge of the mow-strip as the property line, as indicated on the final site plan. The actual transfer of the property is a separate agreement between the applicant and the Church.

The second issue is a 36-inch storm drain pipe that was believed to run along the north boundary of the property, but that the project engineer found to be located underneath the foundation of the adjacent building to the north. Davis County Public Works has claimed a 20' wide drainage easement on both sides of the pipe center line (40' total), and so the applicant decided to locate the driveway on the north side of the property to accommodate the easement.

The utilities and other service connections are all located in 800 West, except for the power. The applicant should be able to use the existing water, sewer, and gas stubs, although the gas stub may need to be upsized. The water and sewer lines will run under the detention basin, and so the project engineer must make sure that there is at least 48 inches of cover over the top of these lines. An on-site detention basin will collect the water from this property and meter it out to the stormdrain system installed in 800 West about 5 years ago.

There are power poles located on at least three corners of the property, and the applicant will need to contact Bountiful Power to determine where he should make a connection. This must occur prior to issuing a building permit so that the underground conduit is laid in the proper location.

On the final site plan layout a trash dumpster location is shown, however it needs to have a solid enclosure with gates, consistent with the design of the building.

Staff recommends granting preliminary and final site plan approval for the PRW Office and Commercial Building with the finding that this proposal meets City Ordinance with the following conditions:

1. All redline corrections be made, including location of the underground electrical conduit and the solid gates on the dumpster enclosure.
2. The property boundary gap issue be resolved in writing prior to issuing a building permit.
3. A 20' wide stormdrain easement on behalf of Davis County Flood Control be recorded along the entire length of the north property line.

After a brief discussion Michael Allen made a motion to recommend to the City Council final commercial site plan approval located at 3263 S. 800 W. Subject to the conditions outlined by Staff. Ray Keller seconded the motion and voting was unanimous in favor.

3. **PUBLIC HEARING** - Consider a variance to allow building on a reduced rear yard setback located at 349 W. 300 N., Mark Minnis, applicant.

Mark Minnis, applicant, was present. Aric Jensen explained that Mark Minnis is requesting a variance from the rear-yard setback requirements of the R-4 zone in order to construct an attached two-car garage. Mr. Minnis currently has a detached two-car garage on the site that he would like to remove and replace with an attached two-car garage. The lot is approximately 7400 sq. ft, or 0.17 acres in size.

The home was originally built in 1960, and therefore qualifies for the reduced side yard setback of 5 feet (instead of 8 feet) for homes that do not have attached two car garages. However, the subject property is pie-shaped and so it doesn't get wide enough for a two-car garage until beyond the midpoint of the existing home.

Mr. Minnis is proposing a structure that is about 30 feet deep by 32 feet wide. A typical two-car garage is 24 feet by 24 feet. The reason for the increased size is that Mr. Minnis desires additional space on the main level for tools and workshop space, and desires to put a second floor above the proposed attached garage and therefore needs space for stairs.

The following is a conforming copy of Utah Code 10-9a-702, which outlines the duties of the appeal authority in relation to variances (underlining added to indicate necessary findings for approval):

10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.*
- (2) (a) The appeal authority may grant a variance only if:*
- (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;*
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;*
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;*
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and*
 - (v) the spirit of the land use ordinance is observed and substantial justice done.*
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may*

not find an unreasonable hardship unless the alleged hardship:

(A) is located on or associated with the property for which the variance is sought; and

(B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.

(ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.

(c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:

(i) relate to the hardship complained of; and

(ii) deprive the property of privileges granted to other properties in the same zone.

(3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.

(4) Variances run with the land.

(5) The appeal authority may not grant a use variance.

(6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:

(a) mitigate any harmful affects of the variance; or

(b) serve the purpose of the standard or requirement that is waived or modified.

Staff's opinion is that the petitioner has shown that he meets all of the necessary criteria such that the Commission may grant a variance, however, Staff believes that the petitioner's request of a 30' by 32' garage with a second level is exorbitant. The desire of additional space for a workshop area and for stairs to go to a second level are completely self imposed hardships. Staff believes that the pie-shape of the lot does necessitate constructing a portion of any two-car garage within a rear-yard setback, however, the proposal of the applicant goes above and beyond the concept of a "substantial property right possessed by other property in the same zone." I.e., an attached two-car garage *with a workshop and a second floor* is not a substantial property right, such as the right to build a home.

Staff makes the following findings in regards to granting a variance for a smaller two-car garage: First, literal enforcement of the ordinance would create an unreasonable hardship that is not necessary to carry out the general purpose of the zoning ordinance, i.e., Due to the pie-shape of this lot, it is not reasonably feasible to construct an attached two-car garage outside of the rear-yard setback without substantial hardship.

Second, there are special circumstances that apply to this property that do not apply to all other properties in the neighborhood; specifically, this is a pie-shaped lot.

Third, the spirit of the Ordinance is upheld and substantial justice is done by allowing the applicant to construct an attached two-car garage.

Fourth, this is not contrary to the general plan, which calls for single-family development and related accessory structures.

Fifth, in regards to Section 10-9a-707 (2)(b - c), the hardship is located on the property and is the result of circumstances peculiar to the property.

Sixth, a two car garage is an expected and necessary element of a residential structure in our climate, and denying the right to build such would be tantamount to denying the petitioners of a privilege afforded to other property owners in the area. However, the specific request of the applicant appears to go above and beyond the minimum necessary to satisfy this requirement.

Staff recommends that the request be denied as proposed, for the reasons stated in the Staff Report. However, the Commission could also continue the item to allow the applicant the opportunity to modify his request.

Mark Minnis explained that since he has purchased the home he has done extensive remodel to the interior, rebuilt the front porch, added a side entry, an addition of a dinning room with a covered deck to the rear of the home. After all the remodeling he discovered that the existing garage has some structural damage. Mr. Minnis would like to build a two car garage with a second floor for storage, which would not be used for living space. To rebuild the existing garage would not meet the current ordinance of having 5 feet between structures. Having an attached garage would not meet the current back yard set back. Mr. Minnis is requesting a variance to build a two car with a second floor for storage.

There was a discussion regarding the usage of the second floor, options for storage such as eliminating the second floor and using the attic for storage, and the setbacks not meeting the ordinance.

The public hearing was opened for those with comments or concerns.

Melodee Martinez and Malonee Jensen, trustees for father Chad Parks residing at 303 N. 350 W., had several concerns with this proposal. Ms. Martinez presented the Commission with aerial photos showing the home of Mr. Minnis and their father's home. Ms. Martinez explained that there are no two story homes nor are there any two car garages in this subdivision. Since Mr. Minnis has built the addition on the side of his home, the area is too tight. If the garage is allowed to be built, it will be too close to their father's home. They feel that Mr. Minnis is asking for too much house and garage for the size of the lot. The size of lots and homes in this area are small and this variance should not be granted.

There was a discussion between the Commission and Ms. Martinez and Ms. Jensen regarding the property lines, the location of the existing garage and the location of the proposed garage. After the discussion the Commission felt that two stories is not appropriate for the neighborhood, the garage is over powering for the size of the lot, and the size of the garage needs to be cut back.

It was decided to have Mr. Minnis resubmit plans that are more appropriate for the size of the property.

Michael Allen made a motion to recommend continuing the public hearing for one month (May 20, 2008) to allow the applicant to meet with Staff and neighbors to arrive with a plan that is more acceptable. He also requested more information showing the exact property lines and the existing and the proposed garage locations. Tom Smith seconded the motion and voting was unanimous in favor.

Meeting adjourned at 8:15 p.m.